

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:16-CR-81-D
No. 5:17-CV-290-D

JERMAINE LAWRENCE JOHNSON,)
)
 Petitioner,)
)
 v.)
)
 UNITED STATES OF AMERICA,)
)
 Respondent.)

ORDER

On June 14, 2017, Jermaine Lawrence Johnson (“Johnson” or “petitioner”) filed a motion to vacate, set aside, or correct his 84-month sentence pursuant to 28 U.S.C. § 2255 [D.E. 62]. On August 21, 2017, the court referred Johnson’s ineffective-assistance claim concerning the alleged failure to file a notice of appeal to Magistrate Judge Gates for an evidentiary hearing and a memorandum and recommendation (“M&R”). See [D.E. 67]. On October 31, 2017, Judge Gates held an evidentiary hearing. See Tr. [D.E. 75]. On March 14, 2018, Judge Gates issued a comprehensive M&R [D.E. 78]. In that M&R, Judge Gates recommended that the court dismiss Johnson’s failure-to-file-appeal-instruction claim and Johnson’s newly-raised failure-to-consult claim. See M&R at 2– 27. No party objected to the M&R.

“The Federal Magistrates Act requires a district court to make a de novo determination of those portions of the magistrate judge’s report or specified proposed findings or recommendations to which objection is made.” Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (emphasis, alteration, and quotation omitted); see 28 U.S.C. § 636(b). Absent a timely objection, “a district court need not conduct a de novo review, but instead must only satisfy itself that

there is no clear error on the face of the record in order to accept the recommendation.” Id.
(quotation omitted).

The court has reviewed the entire record, including the M&R, the transcripts, and the briefs.
The court agrees with the analysis in the M&R. See [D.E. 78].

In sum, the court ADOPTS the findings and conclusions in the M&R [D.E. 78], and
DISMISSES Johnson’s motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. §
2255 [D.E. 62]. The court DENIES a certificate of appealability. See 28 U.S.C. § 2253(c); Miller-El
v. Cockrell, 537 U.S. 322, 336–38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000). The clerk
shall close the case.

SO ORDERED. This 9 day of April 2018.



JAMES C. DEVER III
Chief United States District Judge